

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **12/11/2008**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Skwarczek**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Education - MPS**

Extra Copies: **TKK**

Submit via email: **NO**

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### **Pre Topic:**

DOA:.....Skwarczek, BB0256 -

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### **Topic:**

Annual fee for private school participation in the MPCP

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### **Instructions:**

See attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 12/11/2008	csicilia 12/12/2008		_____			S&L
/1	pgrant 12/15/2008	csicilia 12/16/2008	phenry 12/12/2008	_____	sbasford 12/12/2008		S&L
/2			jfrantze 12/16/2008	_____	mbarman 12/16/2008		

FE Sent For:

<END>

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/1			phenry 12/12/2008	_____	sbasford 12/12/2008		

FE Sent For:

*12/16*  
*08*  
*12/16*  
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/?	pgrant						
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1 js 12/12 12/12  
08 12/12 ph  
R 12/12 ph

FE Sent For:

<END>

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Milwaukee Parental Choice Program (MPCP) - Fees
- Tracking Code: BB0256
- SBO team: Education
- SBO analyst: Marta Skwarczek
  - Phone: 266-5468
  - Email: marta.skwarczek@wisconsin.gov
- Agency acronym: DPI
- Agency number: 255
- Priority (Low, Medium, High): Medium

Intent:

Under the relevant section of Wisconsin statutes:

- Give the Department of Public Instruction (DPI) the authority to assess a fee on any school that applies to participate in the MPCP.
- Give DPI the authority to capture the fee by either charging the fee to the school at the time the school applies for participation in the MPCP or by withholding the fee from a participating school's payment under the MPCP.
- Create a new program revenue, continuing appropriation in which these fees would be deposited.
- Direct DPI to use any collected fees for the purpose of auditing schools that participate in the MPCP.
- Direct DPI to promulgate administrative rules to implement the fee and give DPI the authority to set the fee amount by administrative rule.

**Grant, Peter**

**From:** Skwarczek, Marta A - DOA [Marta.Skwarczek@Wisconsin.gov]  
**Sent:** Thursday, December 11, 2008 10:26 AM  
**To:** Grant, Peter  
**Subject:** RE: BB0256

Ok, the Feb. 1<sup>st</sup> deadline would work for all schools.

**From:** Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]  
**Sent:** Thursday, December 11, 2008 9:41 AM  
**To:** Skwarczek, Marta A - DOA  
**Subject:** RE: BB0256

Marta, isn't a private school that is participating in the MPCP in the current school year still required to provide the notice under 119.23 (2) (a) 3. by February 1 if it intends to participate in the MPCP in the next school year? So why not require all schools to pay the fee with that notice? (With an exception for schools participating in the 2009-10 school year, because the Feb. 1 deadline will have passed by the time the bill becomes law. For those schools, the fee would be due by September 1.) OK?

**From:** Skwarczek, Marta A - DOA [mailto:Marta.Skwarczek@Wisconsin.gov]  
**Sent:** Wednesday, December 10, 2008 5:15 PM  
**To:** Grant, Peter  
**Subject:** RE: BB0256

Peter,  
 My request has changed slightly since this afternoon and the changes are (hopefully) reflected in my answers below. Please let me know if the law can be written to authorize DPI to charge fees for the purpose of funding 1.0 FTE auditor position (as I propose below).

Thanks!

**From:** Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]  
**Sent:** Wednesday, December 10, 2008 3:20 PM  
**To:** Skwarczek, Marta A - DOA  
**Subject:** BB0256

Hi Marta -

Some questions about the request regarding MPCP fees:

- Do you want to give DPI the *authority* to assess (and determine the amount of) an application fee, or do you want to *require* DPI to collect an application fee, the amount of which DPI would determine?

Give DPI the *authority* to assess (and determine the amount of) fees sufficient to fund 1.0 FTE auditor position.

- Would the fee be nonrefundable?

Yes

- Could DPI choose whether to get the fee upfront or deduct it from an aid payment on a school-by-school basis, or must it decide ahead of time which way it wants to go and treat all schools the same?

Require a school that is not participating in the program in the current school year to pay a fee with its notice of intent to participate (due Feb. 1) and a school that is already participating to pay a fee when it submits the financial information required under 119.23 (7) (am) (due Sept. 1).

- Would the fee first apply to schools participating in the MPCP in the 2009-10 school year?

Yes- but a separate payment schedule can be set for 2009-10 to give schools more time to make the payment

- The instructions say the fees would be used to audit the participating schools. Does that mean evaluating the financial information submitted by the private schools under s. 119.23 (7) (am)? Should it also include the information submitted under

12/11/2008

119.23 (7) (d) 2. and 3.? Anything else?

The funds would be used to pay for the 1.0 FTE auditor position whose duties would include but not be limited to evaluating financial information submitted under s. 119.23 (7) (am).

Thanks.

Peter

LRB-1103/1  
REG-90

DOA:.....Fath, BB0245 - Milwaukee Parental Choice Program - Fees

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT *Do NOT Gen* relating to: the budget. *participating in the MPCP in any school year**the following*  
**Analysis by the Legislative Reference Bureau****EDUCATION****PRIMARY AND SECONDARY EDUCATION***each year*  

Under the Milwaukee Parental Choice Program (MPCP), the state pays for certain pupils to attend private schools located in the city of Milwaukee. ~~To continue in the MPCP, a private school must submit an independent financial audit and evidence of sound fiscal practices to DPI by September 1 following a year in which the private school participated in the MPCP.~~

*a*  

This bill requires each private school *that applies to participate* participating in the MPCP to pay to DPI *the* an annual, nonrefundable fee in an amount to be determined by DPI. DPI must use all fees ~~collected under this bill~~ to evaluate the financial audits and evidence of sound fiscal practices submitted to DPI by participating private schools.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:** *AK*

2 SECTION 1. 20.255 (1) (j) of the statutes is created to read:

20.255 (1) (j) *Milwaukee Parental Choice Program fees*. All moneys received under s. 119.23 (2) (a) <sup>2, and 3.</sup> 8. to be used to evaluate the financial information submitted under s. 119.23 (7) (am) <sup>and (2) 2, and 3.</sup> by private schools participating in the Milwaukee Parental Choice Program. *financial audits*

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 119.23 (2) (a) 8. of the statutes is created to read:

119.23 (2) (a) 8. ~~Annually~~, the private school pays a nonrefundable fee to the department. A private school that is not participating in the program under this section in the current school year shall pay <sup>the</sup> a fee, ~~determined by the department by rule~~, with its notice of intent to participate under subd. 3. A private school that is required to comply with sub. (7) (am) shall pay a fee, ~~determined by the department by rule, with the information required by sub. (7) (am).~~ The department shall use all fees collected under this paragraph to evaluate the financial information submitted under sub. (7) (am).

SECTION 3. 119.23 (10) (a) 2. of the statutes is amended to read:

119.23 (10) (a) 2. Failed to provide the notice required under sub. (2) (a) 3., or the information required under sub. (7) (am) or (d), or the fee required under sub. (2) (a) 8. by the date or within the period specified.

SECTION 913<sup>9</sup>. **Nonstatutory provisions; Public Instruction.**

(1) MILWAUKEE PARENTAL CHOICE PROGRAM FEES; RULES. By the first day of the 3rd month beginning after the effective date of this subsection, the department of public instruction shall, using the procedure under section 227.24 of the statutes, promulgate <sup>the</sup> the rule <sup>3.</sup> required under section 119.23 (2) (a) 8. of the statutes, as ~~created~~ <sup>affected</sup> by this act, for the period before the effective date of the permanent rule promulgated

*specifying the amount of the fee*



*specifying the fee*  
(1) ~~under section 119.23 (2) (a) 8. of the statutes, as created by this act, but not to exceed~~  
(2) ~~the period authorized under section 227.24 (1) (c) and (2) of the statutes.~~  
3 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department  
4 of public instruction is not required to provide evidence that promulgating a rule  
5 under this subsection as an emergency rule is necessary for the preservation of the  
6 public peace, health, safety, or welfare and is not required to provide a finding of  
7 emergency for a rule promulgated under this subsection.

(8) (2) MILWAUKEE PARENTAL CHOICE PROGRAM FEES; FEES FOR THE 2007-08 SCHOOL  
(9) YEAR. Notwithstanding section 119.23 (2) (a) ~~8.~~ <sup>e 3.</sup> of the statutes, as ~~created~~ <sup>affected</sup> by this act,  
(10) each private school participating in the program under section 119.23 of the statutes,  
(11) ~~as affected by this act, in the 2007-08 school year shall pay the fee required under~~ <sup>e 2009-10</sup>  
(12) section 119.23 (2) (a) ~~8.~~ <sup>e 3.</sup> of the statutes, as ~~created~~ <sup>affected</sup> by this act, no later than 30 days  
13 after the effective date of the rule promulgated under subsection (1).

14

(END)

↑  
check  
a.r.

X

2-17:1

Section #. 119.23 (2) (a) 3. of the statutes is amended to read:

and paid a nonrefundable fee set by the department

119.23 (2) (a) 3. The private school notified the state superintendent of its intent to participate in the program under this section by February 1 of the previous school year. The notice shall specify the number of pupils participating in the program under this section for which the school has space.

History: 1989 a. 336; 1993 a. 16; 1995 a. 27 ss. 4002 to 4009, 9145 (1); 1995 a. 216; 1997 a. 27, 113; 1999 a. 9; 2001 a. 16, 105; 2003 a. 33, 155; 2005 a. 25, 125.

INS.  
2-17:4 ins.

## STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

2 - 17 : 1 : ins

To the extent feasible,  
the department shall <sup>set</sup> ~~insure~~ that the fee  
<sup>charges</sup> ~~changed~~ under this subdivision  
is ~~set~~ so as to generate sufficient  
revenue to pay the costs of  
evaluating the financial information  
submitted under sub. (7) (am) and  
(d) 2. and 3.

✓ X (2-17:2)

Section #. 119.23 (10) (a) 2. of the statutes is amended to read:

119.23 (10) (a) 2. Failed to provide the notice or pay the fee ✓ required under sub. (2) (a) 3., or the information required under sub. (7) (am) or (d), by the date or within the period specified.

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**Grant, Peter**


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**From:** Skwarczek, Marta A - DOA [Marta.Skwarczek@Wisconsin.gov]  
**Sent:** Monday, December 15, 2008 3:03 PM  
**To:** Grant, Peter  
**Subject:** RE: BB0256

The salary of the 1.0 position would most likely not fluctuate very much. The largest fluctuation would probably be between the first and second years of the biennium, as the new employee would not be hired until after the budget passes, so less than a full year's salary/fringe benefits would be needed the first year.

Also, if the law could be written to require DPI to collect a fee to fund up to 1.0 FTE auditor, that would be best (in case DPI determines that less than 1.0 FTE auditor is necessary to do the job). Is this ok?

Thanks.

---

**From:** Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]  
**Sent:** Monday, December 15, 2008 2:42 PM  
**To:** Skwarczek, Marta A - DOA  
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Well, it's certainly unusual (in fact, it may be unique; I can't find anything similar in the current statutes), but I can't think of any reason why it can't be done. I don't know if you're being overly cautious, but the draft as written would certainly allow DPI to do as you suggest.

About that fee: initially, I thought that the costs of evaluating the financial info might fluctuate quite a bit from year to year, and I was a little concerned that DPI would be required to promulgate a new rule every year to modify the fee. Would there be enough time to do that? But now, with the fee set to fund one position, maybe that's not an issue, because the salary will not fluctuate much. What do you think?

---

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**Sent:** Monday, December 15, 2008 2:21 PM  
**To:** Grant, Peter  
**Subject:** RE: BB0256

Peter,  
 I just took a look at the draft and I was wondering if it is possible to write it so that the department sets the fee specifically to generate sufficient revenue to pay the costs of employing 1.0 FTE auditor for the purposes of evaluating financial information submitted by Choice schools.

What I am trying to avoid is DPI setting a fee such that revenues cover all the department's costs related to auditing Choice schools. DPI already has 1.0 auditor working on Choice schools. The fee is only intended for the purpose of generating revenue to cover the cost of an additional 1.0 auditor position.

Please let me know your thoughts and if you think I am being overly cautious.

Marta

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**Sent:** Thursday, December 11, 2008 9:41 AM  
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Stays

DOA:.....Skwarczek, BB0256 - Annual fee for private school participation in the MPCP

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Do NOT Gen

1 AN ACT...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

Under the Milwaukee Parental Choice Program (MPCP), the state pays for certain pupils to attend private schools located in the city of Milwaukee. A private school participating in the MPCP in any school year must submit an independent financial audit and evidence of sound fiscal practices to DPI by the following September 1.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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5       participating in the Milwaukee Parental Choice Program.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6       **SECTION 2.** 119.23 (2) (a) 3. of the statutes is amended to read:

7       119.23 (2) (a) 3. The private school notified the state superintendent of its  
8       intent to participate in the program under this section, and paid a nonrefundable fee  
9       set by the department, by February 1 of the previous school year. The notice shall  
10      specify the number of pupils participating in the program under this section for  
11      which the school has space. To the extent feasible, the department shall set the fee  
12      charged under this subdivision so as to generate sufficient revenue to pay the costs  
13      of evaluating the financial information submitted under sub. (7) (am) and (d) 2. and  
14      3. *employing one full-time auditor to evaluate*

15      **SECTION 3.** 119.23 (10) (a) 2. of the statutes is amended to read:

16      119.23 (10) (a) 2. Failed to provide the notice or pay the fee required under sub.  
17      (2) (a) 3., *provide* or the information required under sub. (7) (am) or (d), by the date or within  
18      the period specified.

19      **SECTION 9137. Nonstatutory provisions; Public Instruction.**

20      (1) MILWAUKEE PARENTAL CHOICE PROGRAM FEES; RULES. By the first day of the  
21      3rd month beginning after the effective date of this subsection, using the procedure  
22      under section 227.24 of the statutes, the department of public instruction shall  
23      promulgate a rule specifying the amount of the fee under section 119.23 (2) (a) 3. of



1 the statutes, as affected by this act, for the period before the effective date of the  
2 permanent rule promulgated specifying the fee but not to exceed the period  
3 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
4 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of public  
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6 subsection as an emergency rule is necessary for the preservation of the public peace,  
7 health, safety, or welfare and is not required to provide a finding of emergency for a  
8 rule promulgated under this subsection.

9 (2) MILWAUKEE PARENTAL CHOICE PROGRAM FEES; FEES FOR THE 2009-10 SCHOOL  
10 YEAR. Notwithstanding section 119.23 (2) (a) 3. of the statutes, as affected by this act,  
11 each private school participating in the program under section 119.23 of the statutes  
12 in the 2009-10 school year shall pay the fee required under section 119.23 (2) (a) 3.  
13 of the statutes, as affected by this act, no later than 30 days after the effective date  
14 of the rule promulgated under subsection (1).

15 (END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1103/2

PG:cjs:jf

DOA:.....Skwarczek, BB0256 - Annual fee for private school participation in the MPCP

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12      subdivision at an amount no greater than the amount necessary to pay the costs of  
13      employing one full-time auditor to evaluate the financial information submitted by  
14      the private schools under sub. (7) (am) and (d) 2. and 3.

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13 of the statutes, as affected by this act, no later than 30 days after the effective date  
14 of the rule promulgated under subsection (1).

15 (END)